IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7051 OF 2006

The Secretary,
Siddhanath Shikshan Prasarak
Mandal and others .... Petitioner

versus

Haridas Murlidhar Mane..... Respondent.

Shri T.D. Deshmukh for the petitioner
Sghri I.M.Khairdi for respdt. no.1.

CORAM; A.P. DESHPANDE, J.
DATED; 31ST JANUARY, 2007.

P.C.;

1. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

2. This petition is filed by the school management for challenging the legality and validity of the order passed by the Presiding officer, School tribunal below Exh.22 in appeal No.246 of 2005 dated 4-9-2006. By the impugned order the education officer is restrained from disbursing the grant to the school administered by the petitioner until the final decision of the appeal. The main contention raised on behalf of the petitioner is that the petitioner did file its reply

to the application at Exh.22 and without considering the same the impugned order has been passed. It is not in dispute that the impugned order proceeds on the footing that the petitioner has not filed any reply to the application at Exh.22. This court had summoned and called for a report from the Presiding Officer which has been received by the Registry dated 20-11-2006. It is crystal clear from the say/reply that the Presiding Officer has explained the reasons as to how the reply filed by the petititoner had escaped his attention. Be it as it may, as the impugned order is passed in ignorance of the reply filed by the petitioner, the order is unsustainable in law and deserves to be quashed. The impugned order is passed in breach of principles of natural justice and thus has to be set aside. In the result, the following order is passed.

3. The impugned order passed below Exh.22 dated 4-9-2006 by the Presiding officer is quashed and set aside. The matter is remanded back to the Presiding officer, School tribunal, Solapur for denovo hearing and decision on the application at Exh.22. Needless to mention that the Presiding Officer shall offer an opportunity to the parties, of being heard and then pass an order in accordance with the law. In the facts of the present case, I direct the Presiding Officer, School tribunal to

decide the application as expeditiously as possible and at any rate within a period of eight weeks from today.

Rule made absolute in above terms.

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